**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 463 OF 2006**
**IN**
**CRIMINAL APPEAL NO. 361 OF 2006**

1. Arun Kashinath Bhagat ..Appellants
2. Harishchandra K. Bhagat (Ori. Accused Nos. 5 and 6)

versus

State of Maharashtra ..Respondents

Mr. V. Z. Kankaria for the Appellants.
Mrs. A. S. Pai, APP for the Respondents - State.

**CORAM : D. G. DESHPANDE, &**
**S. A. BOBDE, JJ.**
**DATE : 14TH JUNE, 2006**

**P.C. :**

1. Heard Advocate for the Appellants - Original Accused Nos. 5 and 6 and learned APP for the State.

2. This is an application for bail filed by the appellants - original accused Nos. 5 and 6. They have been convicted with others for offences under Section 302 r/w 149 of IPC. However, our attention was drawn by the advocate for the appellants - accused to the deposition of P.W. 1 original complainant wherein in paragraph 5 of his cross examination, he has stated that accused Nos. 5 and 6 had no dispute with him or his son and when incident had occurred accused Nos. 5 and 6 were

removing pandal.

3. As against this, learned APP drew our attention to paragraph 15 of the judgment, wherein the learned Judge has observed that the appellants - accused Nos. 5 and 6 were assailants. This general statement is made. No specific role is attributed to the appellants - original accused Nos. 5 and 6. No other evidence is there, nor any other witnesses implicated the appellants - accused Nos. 5 and 6. They were on bail during trial.

4. In the result, this Application is allowed. The appellants - original Accused Nos. 5 and 6 be released on the same amount of bond and the same be executed before the trial court. Appellants - Accused Nos. 5 and 6 to attend Igatpuri Police Station once in a month in the first week, till the appeal is disposed of. Substantive sentence of the appellants - accused Nos. 5 and 6 is suspended pending appeal. Fine, if any, and, if not paid, be paid by them before they are released on bail. Application disposed of.

**(D.G. DESHPANDE, J. )**

**( S.A. BOBDE, J.)**